

FCC 61-1316
November 7, 1961

PUBLIC NOTICE

LICENSEE RESPONSIBILITY WITH RESPECT TO THE BROADCAST OF
FALSE, MISLEADING OR DECEPTIVE ADVERTISING

1. The first issue of a new Federal Trade Commission publication, "Advertising Alert," is enclosed with copies of this Notice which are being mailed to all broadcast licensees. The Federal Communications Commission and the Federal Trade Commission have undertaken this program believing that it will be of great benefit to all broadcasters in assisting them to fulfill their obligation to sift out fraudulent and deceptive advertising matter, to the Commissions themselves in their respective enforcement activities, and eventually to the general public. Subsequent issues of the "Alert," to be mailed directly by the Federal Trade Commission on a regular basis, will bring to all broadcast licensees notice as to advertising matter which is the subject of corrective action by FTC. In addition, the "Alert" will frequently discuss in considerable detail a particular problem area with which the FTC is concerned. These discussions and notices will familiarize licensees with various deceptive practices so that they will be able to recognize them and take appropriate steps to protect the public against them.

2. As you know, the Commission has always held that a licensee's duty to protect the public from false, misleading or deceptive advertising is an important ingredient of his operation in the public interest. In its Report and Statement of Policy re: Commission En Banc Programming Inquiry dated July 29, 1960, the Commission set forth the responsibility with regard to false and misleading advertising in the following terms:

"Broadcasting licensees must assume responsibility for all material which is broadcast through their facilities. This includes all programs and advertising material which they present to the public. With respect to advertising material the licensee has the additional responsibility to take all reasonable measures to eliminate any false, misleading or deceptive matter . . . This duty is personal to the licensee and may not be delegated."

It is the hope of this Commission and of the FTC that the program here instituted will be of assistance to licensees in carrying out this responsibility.

3. The "Alert" will contain information pertaining to Complaints and Orders which have been issued by the Federal Trade Commission. If there is submitted to a licensee advertising matter which has been the subject of an FTC *Complaint*, he should realize that, although no final determination has been made that the advertising in question is false or deceptive, a question has been raised as to its propriety, and he should therefore exercise particular care in deciding whether to accept

it for broadcast. An *Order* issued by the Federal Trade Commission against an advertiser, which has become final, is a formal determination by that agency that the particular advertising in question is false or deceptive. Should it come to this Commission's attention that a licensee has broadcast advertising which is known to have been the subject of a final *Order* by the FTC, serious question would be raised as to the adequacy of the measures instituted and carried out by the licensee in the fulfillment of his responsibility, and as to his operation in the public interest.

4. In this regard, particular attention is directed to the fact that licensee responsibility is not limited merely to a review of the advertising copy submitted for broadcast, but that the licensee has the additional obligation to take reasonable steps to satisfy himself as to the reliability and reputation of every prospective advertiser and as to his ability to fulfill promises made to the public over the licensed facilities. The fact that a particular product or advertisement has not been the subject of Federal Trade Commission action in no way lessens the licensee's responsibility with regard to it. On the contrary, it is hoped that the information received from these "Alerts" will make it possible for licensees to recognize questionable enterprises, claims, guarantees, and the like, and where deemed inappropriate for broadcast, to bring them to the attention of the Federal Trade Commission for possible further investigation.

5. The Commission hopes that this program will help licensees in carrying out their responsibilities and we will welcome any comments and suggestions as to how it is felt this program might be enhanced so as to enable licensees to give greater protection to the public and thus render an even more valuable service to their communities.